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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/700,014

12/29/2000

Roger J. Talish

41482/205537

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23370

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EXAMINER

BENNETT, HENRY A

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 03/12/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/700,014

Applicant(s)

TALISH ET AL.

Examiner

Henry Bennett

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3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 22-24, 40-43, 53, 57, 60-64, 72, 73, 81-83, 85 and 86 is/are rejected.
- 7) ☐ Claim(s) 4, 5, 25-31, 44, 46-50, 54-56, 58, 59, 65-70, 74-81, 84, 85 and 87 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,41,51-53,57,60,61,82,83, and 85 are rejected under 35 USC 102(b) as being anticipated by **European Application 0679371 A1** or **US Patent 5478788**. The European application discloses an ultrasonic bandage system having an backing layer 37' and adhesive on it surface which contacts the piezoelectric element 36. Also not Figs 12 and 13 that show a plurality of transducers connected electrically for transmitting ultrasonic treatment to an affected area. **US Patent 5478788** discloses an array of piezoelectric devices attached to a sheet of adhesive material.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,22,23,24,40, 42,43,62,63,64,72,73,81and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over **European Application 0679371 A1** as applied to claims 1,41,51-53,57,60, and 61 above, and further in view of **Gale US Patent 4,725,272**. The European Application teaches the claimed invention with the exception of specifically recitation of the bandage adhesive material as well as the backing material. Gale teaches that is know to use polyurethane as a backing material as well as to use polyurethane resin as an adhesive material for bandages. It would have been obvious to have modified the ultrasonic bandage system of the European Application to substitute polyurethane as a backing material as well as to use

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polyurethane resin as an adhesive material. In regard to the method of making the claimed ultrasonic bandage it appears that the claimed steps of construction would have produced the disclosed ultrasonic bandage in the European Application. Applicant is requested to shown how the claimed method of manufacture results in any unobvious characteristics over that disclosed in the European Application.

Claims 4,5,25-31,44,46-50,54-56,58,59,65-70,74-81,84,85,87 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Henry Bennett

703-308-0101



Henry Bennett
Supervisory Patent Examiner
Group 3700